



Billing Code 6355-01-P

## **CONSUMER PRODUCT SAFETY COMMISSION**

### **16 CFR Part 1120**

**[CPSC Docket No. CPSC-2014-0024]**

#### **Substantial Product Hazard List: Seasonal and Decorative Lighting Products**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Consumer Product Safety Commission (“CPSC” or “Commission”) is issuing a final rule to specify that seasonal and decorative lighting products that do not contain any one of three readily observable characteristics (minimum wire size, sufficient strain relief, or overcurrent protection), as addressed in a voluntary standard, are deemed a substantial product hazard under the Consumer Product Safety Act (“CPSA”). Additionally, the Commission is making a technical amendment to reformat incorporations by reference in this part.

**DATES: Effective date:** The rule takes effect on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**FOR FURTHER INFORMATION CONTACT:** Mary Kroh, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-987-7886; [mkroh@cpsc.gov](mailto:mkroh@cpsc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background and Statutory Authority**

#### *A. Statutory Authority*

Section 223 of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”), amended section 15 of the CPSA, 15 U.S.C. 2064, to add a new subsection (j). Section 15(j) of the CPSA provides the Commission with the authority to specify, by rule, for any consumer product or class of consumer products, characteristics whose existence or absence are deemed a substantial product hazard under section 15(a)(2) of the CPSA. Section 15(a)(2) of the CPSA defines a “substantial product hazard,” in relevant part, as a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public. A rule under section 15(j) of the CPSA (a “15(j) rule”) is not a consumer product safety rule that imposes performance or labeling requirements for newly manufactured products. Rather, a 15(j) rule is a Commission determination of a product defect based upon noncompliance with specific product characteristics that are addressed in an effective voluntary standard. For the Commission to issue a 15(j) rule, the product characteristics involved must be “readily observable” and have been addressed by a voluntary standard. Moreover, the voluntary standard must be effective in reducing the risk of injury associated with the consumer products, and there must be substantial compliance with the voluntary standard.

#### *B. Background*

On October 16, 2014, the Commission issued a notice of proposed rulemaking (“NPR”) in the *Federal Register* to amend the substantial product hazard list in 16 CFR part 1120 (“part 1120”) to add seasonal and decorative lighting products that lack certain readily observable

safety characteristics addressed by a voluntary standard because such products pose a risk of electrical shock or fire. 79 FR 62081. The comment period on the proposed rule closed on December 30, 2014. As detailed in section II of this preamble, the Commission received 62 comments on the proposed rule.

The Commission is now issuing a final rule to amend part 1120 by adding three readily observable characteristics of seasonal and decorative lighting products: (1) minimum wire size; (2) sufficient strain relief; and (3) overcurrent protection. After reviewing the comments, the Commission made two clarifications in the final rule to define more clearly products that do not fall within the scope of the rule. Additionally, based on the comments, the Commission has corrected a citation to Underwriters Laboratories (“UL”), *Standard for Safety for Seasonal and Holiday Decorative Products*, UL 588, 18<sup>th</sup> Edition, approved on August 21, 2000 (“UL 588”), in the final rule. As of the effective date of this rule, seasonal and decorative lighting products that do not contain any one of these three readily observable characteristics, as set forth in UL 588, are deemed to create a substantial product hazard under section 15(a)(2) of the CPSA.

### *C. Seasonal and Decorative Lighting Products*

The final rule uses the phrase “seasonal and decorative lighting products” to identify the lighting products that are within the scope of the rule. The final rule defines “seasonal and decorative lighting products” consistent with the description of products subject to UL 588, as set forth in section 1 of UL 588. “Seasonal and decorative lighting products” are portable, plug-connected, temporary-use lighting products and accessories that have a nominal 120-volt input voltage rating. Lighting products within the scope of the rule are factory-assembled with push-in, midget- or miniature-screw base lampholders connected in series or with candelabra- or intermediate-screw base lampholders connected in parallel, directly across the 120 volt input.

Such lighting products include lighted decorative outfits, such as stars, wreathes, candles without shades, light sculptures, blow-molded (plastic) figures, and animated figures. Lighting products outside the scope of the rule include: battery-operated products; solar-powered products; products that operate from a transformer or low-voltage power supply; flexible lighting products incorporating non-replaceable series and series/parallel-connected lamps enclosed within a flexible polymeric tube or extrusion; and portable electric lamps that are used to illuminate seasonal decorations.

This definition of “seasonal and decorative lighting products” is adapted from descriptions of lighting products defined in section 1 of UL 588. All in-scope products are covered by UL 588. Lighting products within the scope of the rule are typically used seasonally and provide only decorative lumination. The products typically are displayed for a relatively short period of time and are then removed and stored until needed again. UL 588 section 2.43 defines the term “seasonal (holiday) product” as: “[a] product painted in colors to suggest a holiday theme or a snow covering, a figure in a holiday costume, or any decoration associated with a holiday or particular season of the year.” UL 588 defines “decorative light products” (decorative outfits) as factory-assembled, electrically powered units providing a seasonal or holiday decorative display having illumination or other decorative effects. A decorative product may contain a lighting string as part of the decorative illumination. A lighting string provided with decorative covers over the lamps is a decorative outfit. If not constructed properly, lighting powered by 120 volts can be damaged easily and can pose a risk of electrical shock or fire.

Lighting products that are excluded from the scope of the rule are subject to different voluntary standards or do not present the same risk of injury. Based on the comments to the proposed rule, the final rule clarifies that “solar-powered products” are not within the scope of

the rule because solar-powered seasonal lights are not connected to a 120-volt branch circuit and do not present the same risk of injury due to shock and fire. Additionally, the final rule clarifies the type of tube lighting that is not within the scope of the rule. The proposed rule used the phrase “flexible tube lighting strings of lights intended for illumination.” The final rule replaces this phrase with: “flexible lighting products incorporating non-replaceable series and series/parallel connected lamps enclosed within a flexible polymeric tube or extrusion.” The description of tube lighting was revised to clarify that such tube lighting is not covered by UL 588 but is covered by another UL standard, UL 2388 Flexible Lighting Products. This clarification is not intended to alter the scope of products covered by the rule; the revision is intended to clarify that flexible lighting products covered by UL 2388 are not within the scope of the rule. Staff Briefing Package: Final Rule to Amend 16 CFR Part 1120 to Add Seasonal and Decorative Lighting Products, dated April 22, 2015 (“Staff Final Rule Briefing Package”) at 3, available at:

<http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2015/Final-Rule-to-Amend-Substantial-Product-Hazard-List-to-Include-Seasonal-and-Decorative-Lighting-Products.pdf>.

*D. Applicable Voluntary Standard*

UL 588-2000 is the current voluntary standard applicable to seasonal and decorative lighting products. UL 588 has been updated over the years to address various safety issues to make seasonal and decorative lighting products safer, *see* 79 FR 62083; Staff’s Briefing Package on Seasonal and Decorative Lighting Products, dated October 2, 2014 (“Staff NPR Briefing Package”), Tab B, Abbreviated History of Seasonal and Decorative Lighting Products and the Associated UL Standard, at:

<http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2015/ProposedRuletoAmendSubstantialProductHazardListtoIncludeSeasonalandDecorativeLightingProducts.pdf>.

Specifically, UL 588, made effective on January 1, 1997, set forth the current requirements for overcurrent protection and minimum wire size; and the current strain relief requirement has been in effect since 1994.

Table 2 in the preamble to the NPR, at 79 FR at 62083, summarized the readily observable characteristics for seasonal and decorative lighting products. Table 2 was intended to present a summary of the relevant provisions of UL 588. As one commenter noted, the “strain relief” column shown in Table 2 in the preamble to the NPR cited SB16 of UL 588, instead of section SB15, and showed the strain relief load as 24 lbs. instead of 20 lbs. Table 1, below, is a revised version of Table 2 from the preamble to the NPR. Table 1 shows the correct citation to section SB15 of UL 588 and the correct strain relief loads. Staff Final Rule Briefing Package at 3-4.

**Table 1. Readily Observable Characteristics for Seasonal and Decorative Lighting Products**

Seasonal and Decorative Lighting Products		Readily Observable Characteristics			
		Minimum Wire Size (AWG) <i>UL 588 Section 6</i>	Sufficient Strain Relief (load weight)		Overcurrent Protection Qty. <i>UL 588 Section 7</i>
			Plugs/Load Fittings <i>UL 588 Sections 15 and 71</i>	Lampholders <i>UL 588 Sections 79 and SB15</i>	
Series-connected lighting product	With Load Fitting	20 (Polarized Plug)	20 lbs. (smaller than 18 AWG)	20 lbs.	1
		22 (Non-Polarized Plug)		8 lbs.	2
	Without Load Fitting	22 (Polarized Plug)		8 lbs.	1
		22 (Non-Polarized Plug)		8 lbs.	2
Parallel-connected light product	With or Without Load Fitting	20 (XTW) 18 (all others) All Polarized Plugs	20 lbs. (20 AWG) 30 lbs. (18 AWG)	20 lbs.	1

*E. Risk of Injury*

1. Electrocution and Fire Hazards

The preamble to the NPR explained that consumers can be seriously injured or killed by electrical shocks or fires if seasonal and decorative lighting products are not made using minimum wire size, sufficient strain reliefs, or overcurrent protection. 79 FR at 62083-84. Lighting products that conform to the minimum wire size requirement in UL 588 will support the product's electrical load without causing overheating. Additionally, lighting products that conform to the minimum wire size requirement provide the necessary mechanical strength to endure handling and other forces imposed on a seasonal lighting product during expected use of the product. Likewise, lighting products that conform to the strain relief requirements in UL 588 will endure use, including pulling and twisting the product, without mechanical damage to the electrical connections. Damaged electrical connections, such as broken strands of copper conductor inside the insulated wiring, could cause overheating (leading to a fire), despite overcurrent protection, or separation of wires from their terminal connections, which could expose bare energized conductors leading to electrical shock. Finally, UL 588's requirements for overcurrent protection prevent products from overheating and melting due to faults, damage, or excessive loads. Such failures carry a potential risk of fire.

2. Incident Data

For the NPR, CPSC staff conducted a search of the Injury or Potential Injury Database ("IPII"), National Electronic Injury Surveillance System ("NEISS"), and the Death Certificate Database ("DTHS") for incidents that involved seasonal and decorative lighting products reported between 1980 and May 2014. CPSC staff has updated this data and found a total of 133 fatal incidents causing 258 deaths, and 1,405 nonfatal incidents that involved seasonal and

decorative lighting products that were in-scope and that occurred between 1980 and 2013.<sup>1</sup> For the final rule, staff searched for in-scope incidents reported from January 2014 through March 2015. CPSC staff found an additional 25 in-scope incidents that occurred in 2014, and staff identified seven incidents that occurred in 2015. All of the 25 incidents in 2014 were nonfatal incidents. One of the seven incidents in 2015 was a fatal incident that caused one death.

Table 2 shows the annual average number of incidents for five different periods for each of the fatal incidents, deaths, and nonfatal incidents. The 35-year period is broken up into five, 7-year periods. Reporting may not be complete for the most recent period because sometimes CPSC receives reports of incidents years after they have occurred. Note that the average number of incidents and deaths has declined over the 35-year period represented in Table 2. *See* Tab E of Staff Final Rule Briefing Package.

**Table 2. Seasonal and Decorative Lighting Product  
Annual Average of Fatal Incidents, Deaths, and  
Nonfatal Incidents from 1980–2014**

<b>Years</b>	<b>Fatal Incidents</b>	<b>Deaths</b>	<b>Nonfatal Incidents</b>
<b>1980–1986</b>	6.7	12.6	54.1
<b>1987–1993</b>	6.3	13.6	40.9
<b>1994–2000</b>	2.9	5.9	37.4
<b>2001–2007</b>	2.3	3.9	38.6
<b>2008–2014</b>	0.9	1.0	33.3

#### *F. Compliance Efforts to Address the Hazard*

As noted in the preamble to the NPR, in numerous instances, CPSC staff has considered the absence of one or more of three readily observable characteristics (minimum wire size, sufficient strain relief, and overcurrent protection) to present a substantial product hazard and has sought appropriate corrective action to prevent injury to the public. 79 FR at 62084. Since the Commission published the NPR (from September 2014 to February 2015), CPSC has not

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<sup>1</sup> Staff has updated incident data from 1980 to 2013 to include retailer reports.



conducted any recalls of seasonal and decorative lighting products, and identified 11 shipments at import involving a total of approximately 37,000 lighting units, where the seasonal and decorative lighting products may not comply with UL 588. *See* Tab D of Staff Final Rule Briefing Package.

## **II. Summary of Comments on the Proposed Rule and CPSC’s Responses**

The Commission received 62 comments and questions in response to the NPR. Substantive comments from several manufacturers expressed general support for the proposed rule, while the consumer commenters were generally opposed to the NPR. Commenters who opposed the rule often appeared to misunderstand the nature of the rulemaking, the Commission’s authority to issue such a rule, and the effect of such a rule on industry and consumers. The Commission received one comment that addressed technical issues associated with UL 588. We summarize the comments and the Commission’s responses below. Three clarifications were made in the final rule based on the comments, described in sections I.C and I.D of this preamble, and in responses to comments 14, 15, and 18.

### *A. General Comments*

Comment 1: Many commenters argued that the proposed rule represents government waste, government overreach, or would result in a “waste of money” because the incident data do not demonstrate a relationship between the incident data and gaps in the UL standard.

Response 1: The Commission disagrees with these commenters. The CPSC’s mission is to protect consumers from unreasonable risks of injury or death from consumer products. The rule would further this mission by allowing staff to remove more effectively seasonal and decorative lighting products from commerce if these products present a risk of fire or electrical shock to consumers. The rule will not result in waste, nor will the rule increase costs. In fact,

the rule should decrease CPSC's costs associated with an existing practice of determining that seasonal and decorative lighting products that do not conform to UL 588 present a defect that rises to a substantial product hazard.

Currently, when CPSC staff encounters seasonal and decorative lighting products that do not appear to meet the requirements of UL 588, field and import staff must collect samples of the products and send them to CPSC's National Product Testing and Evaluation Center ("NPTEC") for further testing. CPSC engineers evaluate and test the samples and provide their assessment to Compliance staff. Compliance staff, relying on CPSC technical staff's assessment, makes a preliminary determination of whether the product presents a substantial product hazard. If Compliance staff makes a preliminary determination of a substantial product hazard, CPSC staff informs the manufacturer or importer of the defective products. Compliance staff then proceeds to negotiate seizure, destruction, or a recall (or some combination of actions) with the firm. Firms may dispute CPSC staff's preliminary determination of a substantial product hazard for failure to conform to UL 588, which can add delay in removing defective products from the market and increase CPSC staff's costs related to supporting a finding of a substantial product hazard.

When nonconforming seasonal and decorative lighting products are identified, CPSC staff must address with each manufacturer or importer the missing safety requirements from UL 588 that staff determined created a substantial product hazard. This process can be time-consuming and resource intensive. Congress has provided the Commission with the ability to streamline the administrative process of substantial product hazard determinations if certain criteria are met. Section 15(j) of the CPSA allows the Commission through a rulemaking to specify for consumer products, or a class of consumer products, characteristics whose presence

or absence shall be deemed a substantial product hazard under section 15(a)(2) of the CPSA. A “substantial product hazard” is a defined term in our statute. Failure to comply with a consumer product safety rule is one way a product can present a substantial product hazard under section 15(a)(1) of the CPSA. A hazard addressed under section 15(j) is deemed to be “a product defect which (because of the pattern of defect, the number of defective product distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public” under section 15(a)(2).

A rule under section 15(j) of the CPSA is not a consumer product safety rule. Further, the Commission is not defining mandatory requirements for seasonal and decorative lighting products that must be tested and certified to a regulation, as a rule issued under sections 7 and 9 of the CPSA would require. The Commission is not required to provide incident data for a rule under section 15(j) of the CPSA to demonstrate “gaps” in the UL standard, because the rule will not impose additional requirements on seasonal and decorative lighting products beyond the identified three readily observable characteristics embodied in UL 588. Instead, the Commission is determining that seasonal and decorative lighting products that do not conform to three elements of the voluntary standard, UL 588, have a product defect that presents a substantial risk of injury to the public. A substantial product hazard determination under section 15(a)(2) of the CPSA seeks to remove already-manufactured defective products from the stream of commerce.

The Commission can only determine that products that do not conform to a voluntary standard present a substantial product hazard under section 15(j) of the CPSA if four criteria are met:

- the characteristics involved must be “readily observable”;
- the characteristics must be addressed by a voluntary standard;

- the voluntary standard must be effective in reducing the risk of injury associated with the consumer products; and
- there must be substantial compliance with the voluntary standard.

Essentially, when a voluntary standard is working effectively to reduce a risk of injury to the public, the Commission can rely on the voluntary standard and take enforcement action to remove products from the stream of commerce when products do not comply with that voluntary standard. The purpose of the NPR was to provide notice to the public that the Commission believes that UL 588 is an effective voluntary standard. When CPSC staff finds products in the stream of commerce that do not comply with one or more of three readily observable safety characteristics, which are defined in UL 588, the Commission believes that those products are defective and present a substantial risk of injury, fire and electrical shock.

Codifying that the absence of any of three safety characteristics for seasonal and decorative lighting products constitutes a substantial product hazard should streamline CPSC's enforcement efforts. Once the rule is final, CPSC will no longer need to rely on a staff preliminary determination of a substantial product hazard, and re-address this issue with each importer or manufacturer in each instance. Instead, CPSC can rely on the Commission's determination of a substantial product hazard for seasonal and decorative lighting products that are missing any of three readily observable characteristics, and then staff can proceed directly to negotiating a recall or seizure of the products without delay. Finally, when noncompliant lighting products are found at the ports, CPSC can rely on the rule to request that Customs and Border Protection ("CBP") seize the defective products through its authority under the Tariff Act. This streamlined process should reduce Commission staff and the monetary resources required to prevent defective products from entering the market.

Comment 2: Many commenters stated that existing standards, such as UL standards, are sufficient in “regulating” seasonal lights and that the agency did not provide a rational basis for selecting seasonal and decorative lighting products for regulation. Another commenter opposed codifying the UL standard, arguing that codifying the standard would “ossify” the voluntary standards process and make the UL standard “rigid,” more difficult to improve, and ultimately make the public less safe.

Response 2: This proceeding concerns a rule under section 15(j) of the CPSA and would not codify UL 588 or any other standard. Rather, under the rule, seasonal and decorative lighting products that do not have specified characteristics that conform to UL 588 would be considered to present a substantial product hazard. This means that such products could be stopped at the ports or otherwise prevented from distribution in the United States. The rule would not replace UL 588 or “ossify” the standard; rather, the rule would work in tandem with the UL standard to help provide safer products to consumers. If UL revises the referenced provisions of UL 588 in the future, the Commission can revise the rule to reference the updated version. Pages 62083 and 62084 of the NPR provided a rational basis for selecting seasonal and decorative lighting products. Lighting products that lack minimum safety characteristics pose a substantial risk of injury to consumers, and the Commission has the authority and obligation to remove such defective products from the stream of commerce.

Comment 3: One commenter stated that the NPR violated the Administrative Procedure Act (“APA”), and was “on its face arbitrary and capricious and without any reasonable foundation” because no rational basis was described in the proposed rule for a new federal regulation on seasonal and decorative lighting products. Many commenters indicated that they considered the rule unnecessary, when CPSC’s own data demonstrate that the UL standard

appears to be effective at reducing the risk of injury associated with seasonal and decorative lighting products. Some commenters stated that the proposed rule does not describe a “substantial product hazard” that needs to be addressed by a regulation, noting that the UL standard has already addressed the hazards associated with seasonal and decorative lighting products.

Response 3: The commenters appear to misunderstand the nature and purpose of the NPR, as well as the Commission’s authority to issue a rule under section 15(j) of the CPSA. The Commission disagrees that the NPR violated the APA and is arbitrary and capricious. The NPR provides adequate rationale for the proposed rule and meets the requirements of section 553(b) of the APA, which requires that a proposed rule:

- be published in the Federal Register;
- provide a statement of the time, place, and nature of public rule making proceedings;
- reference the legal authority under which the rule is proposed; and
- provide either the terms or substance of the proposed rule or a description of the subjects and issues involved.

As discussed in the NPR, seasonal and decorative lighting products have a history of causing deaths and injury. However, the Commission agrees with the commenters that UL 588 effectively addresses the risks caused by insufficient wire size, inadequate strain relief, and lack of overcurrent protection. UL 588 addresses these issues because the absence of these minimum safety characteristics poses a risk of injury, fire, and electric shock to consumers. The Commission’s 15(j) rule recognizes that products that do not conform to UL 588 regarding

minimum wire size, sufficient strain relief, and overcurrent protection, present a substantial product hazard.

A rule under section 15(j) of the CPSA is not a consumer product safety rule, but rather, is a Commission determination of a substantial product hazard. No injury data are required to find that a product presents a substantial product hazard under section 15(a)(2) of the CPSA. Instead, under section 15(a)(2), products are evaluated for defects that have the potential to cause a substantial risk of injury to the public. Even if the Commission has no reported injuries, the Commission could still find that a product has a defect which creates a substantial risk of injury to the public.

Comment 4: One commenter stated that CPSC misused the data cited in the proposed rule, making three fundamental errors:

- implicitly assuming that no older versions of lighting products manufactured before 2000 are in use, which CPSC allegedly uses to show that UL is only partially effective. The commenter asserts that lighting products are used for many years;
- failing to show any recent deaths or injuries since 2000 when UL was allegedly last updated; and
- failing to show that any deaths associated with lighting products were caused by product defects related to the three properties that the UL standards address (safe wire size, safety fuse, and strain protection).

The commenter stated that the proposed rule provides no rational basis for assuming that any residual hazard related to the UL standards exists.

Response 4: This commenter also seems to misunderstand the 15(j) rule. The data presented in the NPR are intended to demonstrate the effectiveness of the voluntary standard, UL 588, not that additional regulation is necessary because UL 588 is only partially effective.

Comment 5: One commenter requested confirmation that current certification markings from UL, Intertek Co (“ETL”), or the CSA Group, or products carrying a listing, are considered to be in conformance with these requirements and the proposed rule does not require any paperwork, such as certificates or permits.

Response 5: The Commission agrees that, unless an importer or retailer has reason to believe that UL, ETL, or CSA certification markings are counterfeit, such marks should indicate compliance with UL 588. Because a rule under section 15(j) of the CPSA is not a consumer product safety rule, a final rule will not impose additional paperwork such as certificates of compliance on importers or manufacturers.

Comment 6: One commenter questioned the definition of “readily observable,” and two commenters questioned whether all three readily observable characteristics need to be met.

Response 6: All three readily observable characteristics on a seasonal and decorative lighting product must be in conformance with UL 588. Under the rule, if one or more characteristics are missing, the product presents a substantial product hazard under section 15(a)(2) of the CPSA.

The Commission has not defined the term “readily observable,” preferring instead to evaluate the concept on a case-by-case basis. The proposed rule states:

The Commission did not define a “readily observable” characteristic in either [previous] rule. In the proposed drawstring rule (75 FR 27497, 27499, May 17, 2010), the Commission found that the requirements detailed in the



relevant voluntary standard could be evaluated with “simple manipulations of the garment, simple measurements of portions of the garments, and unimpeded visual observation.” The Commission stated: “more complicated or difficult actions to determine the presence or absence of defined product characteristics also may be consistent with ‘readily observable.’” Finally, the Commission stated its intent to evaluate “readily observable” characteristics on a case-by-case basis.

75 FR at 27499. The Commission considers the three characteristics of seasonal and decorative lighting products described in the rule to be readily observable, consistent with the Commission’s previous statement.

Comment 7: One commenter questioned how CPSC will enforce the requirements for imported products that are proposed in the NPR.

Response 7: The Commission anticipates continuing the existing enforcement policy at ports of entry and at retail outlets, at least in the near future. Currently, CPSC identifies seasonal lighting products that lack certification marks or that appear to have irregular or counterfeit certification marks or that have other characteristics that might suggest noncompliance with applicable standards. After adoption of the rule, CPSC would evaluate such products to assess whether the products meet all three readily observable safety characteristics. If the products do not meet every one of the three readily observable safety characteristics, CPSC generally anticipates requesting that CBP detain the product if offered for importation. Additionally, CPSC practice is to inform the manufacturer or importer of the defect. Depending on the facts and circumstances, other legally-authorized measures may be taken.

Comment 8: One commenter asked whether the readily observable characteristics apply to both indoor and outdoor seasonal and decorative lighting products.

Response 8: The rule applies to both indoor and outdoor seasonal and decorative lighting products. The three readily observable characteristics are independent of the environment for which the products are rated.

Comment 9: Some commenters generally opposed the NPR, stating reasons such as the “lie of global warming,” limiting electrical power consumption by consumers, or that CPSC should regulate other types of products.

Response 9: These comments are out of scope for this rulemaking.

*B. Comments on Economic Issues*

Comment 10: To demonstrate the potential safety benefits of the proposal, one commenter who supported the NPR suggested that the CPSC estimate the societal costs of fires and electrocutions associated with holiday and seasonal lights. Several commenters opposing the proposed rule stated that the likely safety benefits of the proposal would be small.

Response 10: The estimated numbers and societal costs of deaths, injuries, and property damage associated with seasonal and decorative lighting-related fires and electrocutions are very small, and generally, the numbers have declined to near zero in recent years, consistent with safety improvements made over time to the voluntary standard, UL 588. The rule is not designed to yield further safety benefits; rather, the rule would maintain the current high level of safety and help prevent distribution of nonconforming, seasonal and decorative lighting products that present a substantial product hazard.

Comment 11: Eleven consumer commenters opposing the proposed rule stated that the rule could impose compliance costs on industry, and that any such costs should be weighed

against the minimal likely safety benefits of a rule. One commenter stated that the proposed rule failed to adequately address the full scope of the legal and financial impacts of the regulation. Four commenters suggested that cost increases would result in retail price increases. One commenter asked whether the CPSC could justify “millions of dollars” in costs.

Response 11: The final rule does not impose any new design, manufacturing, testing, certification, reporting, labeling, or other cost burdens on industry. Rather than add “millions of dollars,” as the commenter posited, because the rule is predicated on an existing voluntary standard, the cost of the rule should be essentially zero. In the NPR, the Commission estimated that the level of conformance to the existing voluntary standard is well in excess of 90 percent. The Commission has identified very few nonconforming seasonal and decorative lighting products on the market, even among the lowest-priced products. Thus, no significant wholesale or retail price increases are likely to occur as a result of finalizing the rule. To the extent that any importers market nonconforming seasonal and decorative lighting products, these firms could incur minimal costs of up to a few cents per typical 50-light string to incorporate the correct wire size, proper strain relief, and overcurrent protection. Nonconforming goods, however, are already subject to CPSC enforcement action, including recall, seizure, or forfeiture upon importation. Thus, because no changes to products or importation practices will be needed, the rule will likely have little, if any, impact on costs or consumer choice.

As noted previously, the final rule will create efficiencies for the agency’s enforcement programs.

Comment 12: One commenter opposed to the NPR asserted that a CPSC rule would be duplicative of other existing regulations (presumably referring to the voluntary standard), thereby impacting costs and consumer choices.

Response 12: The final rule designates as a substantial product hazard any seasonal and decorative lighting products that do not conform to three elements of the existing voluntary standard, UL 588. This is consistent with current CPSC enforcement practice. The rule will impose no new requirements or cost burdens on industry. Similarly, because no products will have to be discontinued or withdrawn from the market, the final rule will not affect consumer choice.

Comment 13: One commenter opposed to the NPR questioned whether the proposed rule would maintain “fair and equitable market access for trade partners,” and whether the Commission had explored less restrictive regulatory alternatives.

Response 13: The final rule is not expected to deny or restrict market access in any way. All known products subject to a final rule are imported. Because virtually all such products are estimated to conform to the voluntary standard already, no new restrictions on importation into the United States will occur. Any noncomplying products will be subject to CPSC enforcement action. This has been the case in the past, and this will continue to be the CPSC’s practice even without the rule. No regulatory alternatives exist that would be less restrictive to industry. Under the rule, business practices will not have to change, and therefore, no restrictions on trade will result.

*C. Technical Comments*

Comment 14: One commenter asked the Commission to affirm that the proposed rule would not apply to the following:

- Battery-operated products

- Solar-powered products (either direct powered solar, or one with a storage system that is used when the sun is not out, such as a rechargeable battery to power the lights).
- Transformer or low-voltage power supplied products, such as adaptor-powered products that use a low voltage Class 2 power source or ITE power source, that are third party certified by an NRTL lab.
- Flexible Lighting Products, as covered in the scope of UL 2388 (described as “Flexible Tube Lighting Strings” in the proposed rule).

Response 14: The Commission agrees with the commenter that the scope of the rule is not intended to include the types of products listed above. Section 1120.2(d) of the final rule already states that battery-operated products, products that operate from a transformer or low-voltage power supply; flexible tube lighting [clarified in response 15 below] intended for illumination; and portable electric lamps that are used to illuminate seasonal decorations are all outside the scope the rule. Products listed as out of scope are excluded because they are not subject to the same types of hazards as products within the scope of the rule; or, such products are not subject to UL 588, but rather, are subject to a different voluntary standard. The definition in §1120.2(d) of the final rule has been clarified to state that solar-powered lights are not within the scope of the rule because solar-powered seasonal lights are not connected to a 120 volt branch circuit and do not present the same risk of injury of shock and fire. Thus, §1120.2(d) of the final rule now lists “solar-powered products” as outside the scope of the final rule.

Comment 15: One commenter stated that the proposed rule should clarify which products are addressed by the term “flexible tube lighting strings” because CPSC could be excluding products that should fall within the scope of the rule, as they are addressed in UL 588.

The commenter stated that use of the term “flexible tube lighting strings” could describe a UL 588-covered product connected directly across a 120V supply that uses a standard string of lights placed inside a rigid or flexible tube. The commenter suggested changing the term “flexible tube lighting strings” to “flexible lighting products,” in accordance with the scope of ANSI/UL 2388, Sections 1.1 and 1.2 and add “Flexible Lighting Products that conform with the ANSI/UL 2388 scope and definitions” to the “Rope, tube, ....” listing in- “out-of-scope” products.

Response 15: The Commission agrees that the term “flexible tube lighting strings” could be misconstrued to exempt some products that are covered by UL 588. Accordingly, the definition of “seasonal and decorative lighting products” in §1120.2(d) of the final rule has been changed from the phrase “flexible tube lighting strings of lights intended for illumination” to the phrase “flexible lighting products incorporating non-replaceable series and series/parallel connected lamps enclosed within a flexible polymeric tube or extrusion” to describe out-of-scope lighting products. The Commission believes that this language, taken from UL 2388, the voluntary standard that applies to flexible lighting, will clarify that flexible lighting products subject to UL 2388 are not within the scope of the rule. This clarification is not intended to alter the scope of products covered by the rule; the revision merely clarifies that flexible tube lighting products covered by UL 2388 are not within the scope of the rule.

Comment 16: One commenter asked for confirmation that seasonal and decorative lighting products that are third party certified to ANSI/UL 588 by a Nationally Recognized Testing Laboratory (“NRTL”), such as UL, CSA, or ETL, “would be considered in compliance with this rule and would not require further review.” Additionally, the commenter requested confirmation that products such as a pre-lit artificial tree, or a pre-lit artificial wreath, as long as the decorative lighting (for example, a 120V cord connected incandescent or LED light string

that is series or parallel connected and has push in, screw in or non-replaceable bulbs) is third party certified by an NRTL (such as UL, CSA, or ETL) to ANSI/UL 588, are considered to be in compliance with the proposed rule and would not require further review, even if the entire pre-lit artificial tree or wreath, as a whole with lights, is not UL, CSA, or ETL certified.

Response 16: According to the Occupational Health and Safety Administration (“OSHA”), an NRTL is a private sector organization recognized by OSHA to perform required product certification to electrical standard requirements:

Each NRTL has a scope of test standards that they are recognized for, and each NRTL uses its own unique registered certification mark(s) to designate product conformance to the applicable product safety test standards. After certifying a product, the NRTL authorizes the manufacturer to apply a registered certification mark to the product. If the certification is done under the NRTL program, this mark signifies that the NRTL tested and certified the product, and that the product complies with the requirements of one or more appropriate product safety test standards. Users of the product can generally rely on the mark as evidence that the product complies with the applicable OSHA approval requirement(s) and is safe for use in the workplace.

OSHA’s website as of February 23, 2015 (<https://www.osha.gov/dts/otpca/nrtl/>).

The Commission interprets the comment to suggest that if a product has a mark indicating certification by an NRTL, CPSC should consider the product to be compliant with the applicable provisions of UL 588 and not conduct any further review of the product. The Commission believes that products that are legitimately listed to UL 588 by an NRTL are likely to be in compliance with UL 588 and not likely to present a substantial product hazard.

However, because such marks are sometimes counterfeit, CPSC will use product labeling as but one factor in its decision process when determining which products to investigate for compliance.

Regardless of labeling, CPSC may evaluate any electrical product for whether it poses a substantial product hazard. For example, CPSC staff's existing practice is to evaluate products at the ports to assess whether they present a substantial product hazard, and non-compliance to a relevant voluntary standard may provide evidence of a hazard. Even if electrical products are not subject to a rule under section 15(j) of the CPSA, CPSC field staff can collect samples of non-conforming products and send them to CPSC's lab, NPTEC, for further testing and evaluation.

Comment 17: The commenter asked why "unlighted ornaments that replace a push-in mini-bulb" are exempt from this rule, suggesting that these ornaments have the same fire and shock hazard as ornaments that are lighted, have the same strain relief and wire gauge requirements as lighted ornaments in UL 588, and should be treated as in-scope. He added that the only difference between lighted and unlighted ornaments of this type is that they are not required by UL 588 to have fusing.

Response 17: Table 1 in the NPR provided a non-exhaustive list of examples of lighting products that fall within, and outside of, the scope of the proposed rule. Ornaments that replace a push-in mini-bulb do not fall within the definition of products in §1120.2 (d) of the rule because these products do not have 120 volt input ratings. Additionally, in the experience of CPSC staff, ornaments, regardless of whether they are lighted or unlighted (including motorized and electronic items), have not presented the same hazard as products within the scope of the rule. In fact, CPSC has not found any such products in its archives to present a substantial product hazard.



Comment 18: One commenter pointed out a typographical error in section II of the NPR, item 2, on page 62085, “Sufficient Strain Relief,” of the preamble. The commenter states the correct reference for the method of strain relief testing demonstrated in the NPR should be section SB15 instead of section SB16, which also changes the strain relief load cited in Table 2 from 24 lb. weight to a 20 lb. weight. The commenter also suggested changing the reference of section 79 to paragraph 79.2 in section II of the NPR, item 2, on page 62085 because of the method of testing demonstrated in the NPR. In addition, the commenter noted that the testing method in section II of the NPR, item 2, on page 62085, “Sufficient Strain Relief,” is vague and unrepeatable by specifying that wire is not allowed to “stretch,” as the wire will normally stretch in this test. UL 588 specifies that the wire not stretch more than 1/16” at the entry point of the wire to the lampholder, not that the wire below that point cannot stretch.

Response 18: The Commission agrees with the commenter with regard to the correct citation for strain relief requirements, and has revised the citation to UL 588 in §1120.3(c)(2) regarding strain relief in the final rule to incorporate section SB15 of UL 588, instead of section SB16. We have also published a corrected version of the Table summarizing requirements from UL 588 in the preamble to the final rule, Table 1 in section I.D of this preamble. Table 1 updates the strain relief load from 24 lbs. to 20 lbs. and references SB15 instead of SB16. The Commission declines to revise the Table 1 to include paragraph 79.2, because the strain relief method called out in section 79 of UL 588 includes paragraph 79.2.

In the NPR, the Commission summarized the failure criteria for strain relief to demonstrate that strain relief is readily observable by hanging the appropriate weight and evaluating the results. However, the regulation text adopts the specific requirements for strain relief in UL 588. Section 1120.3(c)(2) specifies that sufficient strain relief requirements are

according to UL 588 sections 15, 71, 79, and SB15 (changed from SB16 to SB 15). Although the cord is allowed to “stretch” within limits as permitted by UL 588 during the strain relief test, CPSC staff’s experience in observing non-conforming seasonal and decorative lighting products is that such non-complying products, in an overwhelming majority of observations, tend to be constructed in a way that they fail catastrophically—the conductors shred apart, with individual strands stretching to their breaking points.

Comment 19: One commenter stated that, in Section II of the NPR, the measurement of wire size (“AWG”) as shown in Picture 3 is not a very accurate method of measurement and is intended for solid core wire, not stranded as required to be used in decorative lighting strings covered by UL 588. The commenter is concerned that using a wire gauge with stranded wire can give false positives for undersized wire, or false negatives for properly sized wires, depending on twisting and other relevant factors. The commenter states that the ANSI UL wire standard uses a different method of determining wire size by measuring the circular mil area. While the wire gauge method may be sufficient to determine the initial need for further examination, the commenter states, it should not be used as the final determination for undersize wiring.

Response 19: The final rule incorporates by reference the minimum wire size requirements in section 6 of UL 588. Section 6 of UL 588 does not state a method for determining or measuring the wire size. Accordingly, the rule does not require any particular test; it requires compliance with section 6 of UL 588 with regard to minimum wire size. The NPR provided an example of one method for measuring wire size.

The purpose of providing a picture of measuring minimum wire size in the NPR was not to favor one method of measuring wire size over another, but to demonstrate that wire size is

readily observable through a direct measurement of the wire. The Commission acknowledges that other methods of directly measuring wire size exist that also can be done quickly and easily. The Commission notes that CPSC staff's experience in observing nonconforming seasonal and decorative lighting products demonstrates that such products typically fall short of conformance to wire size by a large margin, regardless of the method used to determine compliance with section 6 of UL 588.

### **III. Information Supporting Substantial Product Hazard Determination**

#### *A. Defined Characteristics Are Readily Observable and Addressed by UL 588*

Sections 6, 7, 15, 71, 79, and SB15 of UL 588 set forth the requirements for the three readily observable characteristics in the final rule: minimum wire size, sufficient strain relief, and overcurrent protection. Table 1 in section I.D of this preamble summarizes the technical requirements for the three readily observable characteristics in UL 588. The final rule deems the absence of any one of these characteristics to be a substantial product hazard under section 15(a)(2) of the CPSA. The preamble to the NPR set forth information to support a finding that minimum wire size, sufficient strain relief, and overcurrent protection, are readily observable characteristics from UL 588. *See* 79 FR 62084-86. We summarize and update that information here.

#### **1. Minimum Wire Size**

Section 6 of UL 588 requires that series-connected lighting products have a minimum wire size of 20 or 22 AWG, depending on whether the lighting product has a load fitting, and whether the plug is polarized. Minimum wire size, as required in section 6 of UL 588, is a readily observable characteristic of seasonal and decorative lighting products that can be observed visually by taking a measurement of the product's bare wire. 79 FR 62084-85.

## 2. Sufficient Strain Relief

Sections 15, 71, 79, and SB15 of UL 588 set forth the requirements for sufficient strain relief in seasonal and decorative lighting products. Strain relief is observed in several locations: at the plugs and load fittings, as well as at the lampholders. Sufficient strain relief, as required in sections 15, 71, 79, and SB15 of UL 588, is a readily observable characteristic of seasonal and decorative lighting products that can be determined by suspending the applicable load from the plug, load fitting, or lampholder, and by observing for conformance with SB15 of UL 588. 79 FR at 62085-86.

## 3. Overcurrent Protection

Section 7 of UL 588 specifies overcurrent protection for every seasonal and decorative lighting product. Lighting products must contain at least one fuse if the plug is polarized (parallel-connected strings must have a polarized plug) or two fuses if the plug is not polarized. Overcurrent protection, as required in section 7 of UL 588, is a readily observable characteristic of seasonal and decorative lighting products that can be determined by a visual observation of whether the lighting product has a fuse holder containing the correct number of fuses. 79 FR at 62086.

### *B. Conformance to UL 588 Has Been Effective in Reducing the Risk of Injury*

Conformance to sections 6, 7, 15, 71, 79, and SB15 of UL 588, as summarized in Table 1 in section I.D of this preamble, has been effective in reducing the risk of injury from shock and fire associated with below-minimum wire size, insufficient strain relief, and lack of overcurrent protection. CPSC's incident data demonstrate that conformance to UL 588 has coincided with, and may have contributed to, a decline in the risk of injury associated with seasonal and decorative lighting products.

The preamble to the NPR reviewed the reported death and nonfatal incident data from 1980 through 2013, which demonstrated a decline during that period. *See* 79 FR at 62086-87. On January 1, 1997, UL 588’s requirements for overcurrent protection and minimum wire size took effect; and the current strain relief requirement has been in effect since 1994. Table 3 lists the incidents associated with seasonal and decorative lighting products for the periods 1980–1996 and 2000–2014. The years from 1997 to 1999 would have been transitional years, where older products in consumer homes were being replaced with light strings incorporating the January 1, 1997 changes (minimum wire size and overcurrent protection) in the UL standard. The average number of deaths per year and the average number of nonfatal incidents per year were higher before 1997, and the numbers dropped after 1999. *See* Tab E of Staff Final Rule Briefing Package.

**Table 3. Incidents Associated with Seasonal and Decorative Lighting Products**

Period	1980–1996	2000–2014
Deaths	202	45
Nonfatal Incidents	762	545
Average Deaths per year	11.9	3.0
Average Nonfatal Incidents per year	44.8	36.3

*C. Lighting Products Substantially Comply with UL 588*

The Commission has not articulated a bright-line rule for substantial compliance. Rather, in the rulemaking context, the Commission has stated that the determination of substantial compliance should be made on a case-by-case basis. Seasonal and decorative lighting products’ compliance with UL 588 is “substantial,” as that term is used in section 15(j) of the CPSA. The Commission estimates that a majority of seasonal and decorative lighting products, well in excess of 90 percent, sold for consumer use in the United States, likely conforms to UL 588. *See*

79 FR at 62088. Since issuing the NPR, CPSC has not received any information in the comments, or otherwise, that would change the estimated level of compliance with UL 588.

#### **IV. Description of the Rule**

The rule regarding seasonal and decorative lighting products creates two new paragraphs in part 1120: one defines the products covered by the rule and the other states the characteristics that must be present for the products not to present a substantial product hazard.

*Definition.* Section 1120.2(d) defines a “seasonal and decorative lighting product” as portable, plug-connected, temporary-use lighting products and accessories that have a nominal 120 volt input voltage rating. Lighting products within the scope of the rule are factory-assembled with push-in, midget- or miniature-screw base lampholders connected in series or with candelabra- or intermediate-screw base lampholders connected in parallel, directly across the 120 volt input. Such lighting products include lighted decorative outfits, such as stars, wreathes, candles without shades, light sculptures, blow-molded (plastic) figures, and animated figures. Lighting products outside the scope of the rule include: battery-operated products; solar-powered products; products that operate from a transformer or low-voltage power supply; flexible lighting products incorporating non-replaceable series and series/parallel connected lamps enclosed within a flexible polymeric tube or extrusion; and portable electric lamps that are used to illuminate seasonal decorations.

This definition is adapted from descriptions of lighting products defined in section 1 of UL 588. Lighting products within the scope of the rule are typically used seasonally (temporarily) and provide only decorative lumination. The products typically are displayed for a relatively short period of time, and then the lighting products are removed and stored until

needed again. Lighting products that are excluded from the scope of the rule are subject to different voluntary standards or do not present the same risk of injury.

*Substantial product hazard list.* Section 1120.3(c) states that seasonal and decorative lighting products that do not conform to one or more of the following characteristics required in sections 6, 7, 15, 71, 79, and SB15 of UL 588 are deemed substantial product hazards under section 15(a)(2) of the CPSA:

- (1) minimum wire size requirements in section 6 of UL 588;
- (2) sufficient strain relief requirements in sections 15, 71, 79, and SB15 of UL 588; or
- (3) overcurrent protection requirements in section 7 of UL 588.

*Standards incorporated by reference.* Additionally, at the request of the Office of the Federal Register (“OFR”), the Commission is making a technical amendment to part 1120. This technical amendment adds a new section, 1120.4, listing all of the incorporations by reference (“IBR”) for products added to the substantial product hazard list. Thus, the IBR for hand-supported hair dryers and draw strings on children’s upper outerwear is moved from § 1120.3 to the new § 1120.4. No substantive change is being made to the rule regarding hand-supported hair dryers or drawstrings on children’s upper outerwear. The IBR for seasonal and decorative lighting products is also included in the new § 1120.4.

*Incorporation by reference.* The OFR has regulations concerning incorporation by reference. 1 CFR part 51. The OFR recently revised these regulations to require that, for a final rule, agencies must discuss, in the preamble of the rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble of the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, this preamble summarizes the relevant provisions of UL 588. Table 1 in section I.D of this preamble summarizes the requirements of UL 588. Interested persons may purchase a copy of UL 588 from UL either through UL's website, [www.UL.com](http://www.UL.com), or by mail at the address provided in the rule. A copy of the standard also can be inspected at the CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, or at NARA, as provided in the rule.

**V. Commission Determination that Seasonal and Decorative Lighting Products that Lack Any One of Three Readily Observable Characteristics Present a Substantial Product Hazard**

To place a product (or class of products) on the list of substantial product hazards pursuant to section 15(j) of the CPSA, the Commission must determine that: (1) the characteristics involved are "readily observable"; (2) the characteristics are addressed by a voluntary standard; (3) the voluntary standard is effective in reducing the risk of injury associated with the consumer products; and (4) products are in substantial compliance with the voluntary standard. Accordingly, based on the information provided in this preamble, for seasonal and decorative lighting products, the Commission determines that:

- minimum wire size, sufficient strain relief, and overcurrent protection are all readily observable characteristics of seasonal and decorative lighting products. Measurement of minimum wire size and sufficient strain relief can be visually observed, and the presence of overcurrent protection can be visually observed;
- minimum wire size, sufficient strain relief, and overcurrent protection in seasonal and decorative lighting products are addressed by a voluntary standard, UL 588.

Minimum wire size is addressed in section 6 of UL 588. Sufficient strain relief is



addressed in sections 15, 71, 79, and SB15 of UL 588. Overcurrent protection is addressed in section 7 of UL 588;

- conformance to UL 588 has been effective in reducing the risk of injury from shock and fire associated with seasonal and decorative lighting products. From 1980 to 1996, the reported average number of deaths per year was 11.9, and the reported average number of nonfatal incidents per year was 44.8. After changes to the UL standard, from 2000 to 2014, the reported average number of deaths dropped to 3.0, and the reported average number of nonfatal incidents per year dropped to 36.3. Although decreasing numbers of death and injury may be a result of several factors, conformance with UL 588 coincided with, and likely contributed to, the decline in deaths and injuries associated with seasonal and decorative lighting products; and
- seasonal and decorative lighting products sold in the United States substantially comply with UL 588. We estimate that more than 90 percent of seasonal and decorative lighting products for sale in the United States comply with the minimum wire size, sufficient strain relief, and overcurrent protection provisions in UL 588.

## **VI. Effect of the 15(j) Rule**

Section 15(j) of the CPSA allows the Commission to issue a rule specifying that a consumer product or class of consumer products has characteristics whose presence or absence creates a substantial product hazard. A rule under section 15(j) of the CPSA is not a consumer product safety rule, and thus, does not create a mandatory standard that triggers testing or certification requirements under section 14(a) of the CPSA.

Although a rule issued under section 15(j) of the CPSA is not a consumer product safety rule, placing a consumer product on the substantial product hazard list in 16 CFR part 1120 has some ramifications. A product that is or has a substantial product hazard is subject to the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b). A manufacturer, importer, distributor, or retailer that fails to report a substantial product hazard to the Commission is subject to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069, and possibly to criminal penalties under section 21 of the CPSA, 15 U.S.C. 2070.

A product that is or contains a substantial product hazard is also subject to corrective action under sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d). Thus, a rule issued under section 15(j) for seasonal and decorative lighting allows the Commission to order that a manufacturer, importer, distributor, or retailer of lighting products that do not contain one or more of the three readily observable characteristics to offer to repair or replace the product, or to refund the purchase price to the consumer.

A product that is offered for import into the United States and is or contains a substantial product hazard shall be refused admission into the United States under section 17(a) of the CPSA, 15 U.S.C. 2066(a). Additionally, CBP has the authority to seize certain products offered for import under the Tariff Act of 1930 (19 U.S.C. 1595a) (“Tariff Act”), and to assess civil penalties that CBP, by law, is authorized to impose. Section 1595a(c)(2)(A) of the Tariff Act states that CBP may seize merchandise, and such merchandise may be forfeited if: “its importation or entry is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and the merchandise is not in compliance with the applicable rule, regulation, or statute.”

## **VII. Regulatory Flexibility Act Analysis**

The Regulatory Flexibility Act (“RFA”) requires that proposed and final rules be reviewed for the potential economic impact on small entities, including small businesses. 5 U.S.C. 601-612. In the preamble to the proposed rule (79 FR at 62089) the Commission stated that the rule will not have a significant impact on a substantial number of small entities. This statement was based on CPSC staff’s review of the roughly 500 companies that import seasonal and decorative lighting products into the United States, finding that a very high percentage, probably in excess of 90 percent of lighting products sold in the United States, already conform to UL 588. Although the Commission received comments stating that a rule would increase costs for manufacturers and consumers, none of the commenters included any data to support their contention. CPSC has not found any data that would alter the analysis provided in the NPR. Accordingly, the Commission finds that the rule will not have a significant impact on a substantial number of small businesses.

## **VIII. Environmental Considerations**

Generally, the Commission’s regulations are considered to have little or no potential for affecting the human environment, and environmental assessments and impact statements are not usually required. *See* 16 CFR 1021.5(a). The final rule to deem seasonal and decorative lighting products that do not contain one or more of three readily observable characteristics to be a substantial product hazard will not have an adverse impact on the environment and is considered to fall within the “categorical exclusion” for the purposes of the National Environmental Policy Act. 16 CFR 1021.5(c).

## **IX. Paperwork Reduction Act**

The rule does not require any stakeholder to create, maintain, or disclose information. Thus, no paperwork burden is associated with this final rule, and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) does not apply.

## **X. Preemption**

A rule under section 15(j) of the CPSA does not establish a consumer product safety rule. Accordingly, the preemption provisions in section 26(a) of the CPSA, 15 U.S.C. 2075(a), do not apply to this rule.

## **XI. Effective Date**

The preamble to the proposed rule stated that a final rule deeming that any seasonal and decorative lighting product that does not conform to sections 6, 7, 15, 71, 79, and SB15 of UL 588 with regard to minimum wire size, sufficient strain relief, and overcurrent protection is a substantial product hazard would take effect 30 days after publication of the rule in the *Federal Register*. We received no comments on the effective date. Accordingly, the final rule will apply to seasonal and decorative lighting products imported or introduced into commerce on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

## **List of Subjects in 16 CFR Part 1120**

Administrative practice and procedure, Clothing, Consumer protection, Household appliances, Imports, Incorporation by reference, Infants and children, Lighting.

For the reasons stated above, and under the authority of 15 U.S.C. 2064(j), 5 U.S.C. 553, and section 3 of Public Law 110-314, 122 Stat. 3016 (August 14, 2008), the Consumer Product Safety Commission amends 16 CFR part 1120 to read as follows:

## **PART 1120 – SUBSTANTIAL PRODUCT HAZARD LIST**

1. The authority citation for part 1120 continues to read as follows:

Authority: 15 U.S.C. 2064(j).

2. In § 1120.2, add paragraph (d) to read as follows:

### **§ 1120.2 Definitions.**

\* \* \* \* \*

(d) *Seasonal and decorative lighting product* means portable, plug-connected, temporary-use lighting products and accessories that have a nominal 120 volt input voltage rating. Lighting products within the scope of the rule are factory-assembled with push-in, midget- or miniature-screw base lampholders connected in series or with candelabra- or intermediate-screw base lampholders connected in parallel, directly across the 120 volt input. Such lighting products include lighted decorative outfits, such as stars, wreathes, candles without shades, light sculptures, blow-molded (plastic) figures, and animated figures. Lighting products outside the scope of the rule include: battery-operated products; solar-powered products; products that operate from a transformer or low-voltage power supply; flexible lighting products incorporating non-replaceable series and series/parallel connected lamps enclosed within a flexible polymeric tube or extrusion; and portable electric lamps that are used to illuminate seasonal decorations.

3. In § 1120.3, republish the introductory text, revise paragraphs (a) and (b)(1), and add paragraph (c), to read as follows:

### **§ 1120.3 Products deemed to be substantial product hazards.**

The following products or class of products shall be deemed to be substantial product hazards under section 15(a)(2) of the CPSA:

(a) Hand-supported hair dryers that do not provide integral immersion protection in compliance with the requirements of section 5 of UL 859, or section 6 of UL 1727 (incorporated by reference, see § 1120.4).

(b)(1) Children's upper outerwear in sizes 2T to 16 or the equivalent, and having one or more drawstrings, that is subject to, but not in conformance with, the requirements of ASTM F 1816-97 (incorporated by reference, see § 1120.4).

\* \* \* \* \*

(c) Seasonal and decorative lighting products that lack one or more of the following characteristics in conformance with requirements in sections 6, 7, 15, 71, 79, and SB15 of UL 588 (incorporated by reference, see § 1120.4):

- (1) Minimum wire size requirements in section 6 of UL 588;
- (2) Sufficient strain relief requirements in sections 15, 71, 79, and SB15 of UL 588; or
- (3) Overcurrent protection requirements in section 7 of UL 588.

4. Add § 1120.4 to read as follows:

**§ 1120.4 Standards incorporated by reference.**

(a) The standards required in this part are incorporated by reference (“IBR”) into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect all approved material at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (“NARA”). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(b) ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA, telephone: 610-832-9585; <http://www2.astm.org/>.

(1) ASTM F 1816-97, *Standard Safety Specification for Drawstrings on Children's Upper Outerwear*, approved June 10, 1997, published August 1998 (“ASTM F 1816-97”), IBR approved for § 1120.3(b).

(2) [Reserved]

(c) Underwriters Laboratories, Inc. (“UL”), 333 Pfingsten Road, Northbrook, IL 60062 or through UL’s website: [www.UL.com](http://www.UL.com).

(1) UL 588, *Standard for Safety for Seasonal and Holiday Decorative Products*, 18th Edition, approved August 21, 2000 (“UL 588”), IBR approved for § 1120.3(c).

(2) UL 859, *Standard for Safety for Household Electric Personal Grooming Appliances*, 10th Edition, approved August 30, 2002, and revised through June 3, 2010 (“UL 859”), IBR approved for § 1120.3(a).

(3) UL 1727, *Standard for Safety for Commercial Electric Personal Grooming Appliances*, 4th Edition, approved March 25, 1999, and revised through June 25, 2010 (“UL 1727”), IBR approved for § 1120.3(a).

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Alberta E. Mills, Acting Secretary,  
Consumer Product Safety Commission.

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